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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,768	12/12/2000	Gary D. Greer		6802

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EXAMINER	
LANGEL, WAYNE A	
ART UNIT	PAPER NUMBER
1754	

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Acti n Summary	Application No. 735768	Applicant(s) Greer et al
	Examiner Langel	Group Art Unit 1754

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 7-23-03.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 17-27 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 17-27 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)–(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)–(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO–1449, Paper No(s). _____

☒ Notice of Reference(s) Cited, PTO–892

☐ Notice of Draftsperson's Patent Drawing Review, PTO–948

☐ Interview Summary, PTO–413

☐ Notice of Informal Patent Application, PTO–152

☐ Other _____

Office Action Summary

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 17-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson in view of Parker et al. '433. Wilson discloses a method of producing granular fertilizer, which comprises simultaneously admixing low analysis organic waste fertilizer material with an aqueous ammoniacal solution comprising ammonia and either sulfuric acid or phosphoric acid, granulating the resulting reaction mixture, and recovering the resulting high analysis granular fertilizer product, the admixing and granulating being carried out at temperatures below about 300°F. (See column 2, line 21 - column 4, line 68, and column 8, lines 57-71.) The differences between the process disclosed by Wilson, and that recited in applicant's claims, is that Wilson does not disclose that the reaction should be carried out in a pipe reactor, and that the melt from the pipe reactor should be directly sprayed onto a recycling bed of fines in a granulator. Parker et al. '433 discloses the production of granular ammonium

polyphosphate fertilizer in which ammonium polyphosphate melt is prepared in a pipe reactor and distributed onto a bed of solids in a drum granulator to bind smaller fertilizer particles into granules. The melt is sprayed onto a recycle bed of fines in the drum granulator. (See the Abstract, Figure 1 and the description of Figure 1.) It would be prima facie obvious from Parker et al. '433 to carry out the process of Wilson in a pipe reactor and spray the melt from the pipe reactor directly onto a recycling bed of fines in a granulator, since Parker et al. establishes the conventionality of carrying out neutralization reactions in a pipe reactor followed by spraying the resulting melt onto a recycle bed of fines in a drum granulator, and the process of Wilson is directed broadly to producing the granular fertilizer by employing any known or suitable reactors or granulators. There is no evidence on record of unexpected results which would emanate from the use of a pipe reactor in the process of Wilson, followed by spraying the melt from the pipe reactor directly onto a recycling bed of fines in a granulator.

The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ 2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and (c) may be used to overcome an actual or

provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 17-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,159,263 in view of Parker et al. '433. It would be prima facie obvious to spray the melt from the pipe-cross-reactor recited in the claims of Patent 6,159,263 directly onto a recycling bed of fines in a granulator, since Parker et al. '433 establishes that this is a conventional technique for forming granules in the fertilizer industry. Parker et al. '433 is relied upon as discussed hereinbefore.

Claims 17-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 5,984,992. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are broader than the claims recited in Patent 5,984,992.

Claims 17-27 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no "description support" for carrying out the reaction in a pipe reactor.

Claims 20-27 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is indefinite as to whether the recitation of "a process as described" in the parent claims would require that these claims contain all the limitations recited in such parent claims. The word "described" should be changed to --recited-- in the first line of claims 20-27 to avoid this rejection.

Moore and Bexton are made of record for disclosing the production of granular fertilizers employing pipe reactors in conjunction with the granulator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne A. Langel whose telephone number is (703) 308-0248. The examiner can normally be reached on Monday through Friday from 8 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on (703) 308-3837. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

WAL:cdc
August 7, 2003

Wayne A. Langel

WAYNE A. LANGEL
PRIMARY EXAMINER